

<sup>1</sup> Because Turner's motion seeks only reconsideration of the procedural grounds on which I denied her § 2255 motion, I may address it under Rule 60(b) and need not

To warrant equitable tolling, a defendant must establish two elements: “(1) that [she] has been pursuing [her] rights diligently, and (2) that some extraordinary circumstance stood in [her] way and prevented timely filing.” *Lawrence v. Florida*, 549 U.S. 327, 336 (2007) (internal quotation marks and citation omitted). Where a defendant asserts that her mental health provides grounds for such tolling, she must generally demonstrate “profound mental incapacity” that prevented her from timely filing a § 2255 motion. *United States v. Sosa*, 364 F.3d 507, 513 (4th Cir. 2004).

Turner argues in her current motion that I should reconsider her equitable tolling arguments, based on the new documentation she presents. She admits, however, that she has not been hospitalized for mental health problems or deemed mentally incompetent at any time. Review of her documentation also does not indicate to me that her medications or mental impairments were sufficiently incapacitating to prevent Turner from understanding her situation or from analyzing and asserting her rights under § 2255 within the time allotted by statute. Thus, I do not find that her current mental health information presents equitable tolling grounds for relief from the judgment dismissing her § 2255 motion as untimely filed.

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construe and dismiss it as a successive § 2255 motion. *Gonzalez v. Crosby*, 545 U.S. 524, 530-31 (2005).

For the stated reasons, it is **ORDERED** that Turner's motion (ECF No. 87) is DENIED.

ENTER: July 15, 2013

/s/ James P. Jones  
United States District Judge